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| APPLICATION NO.               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------|-------------|----------------------|---------------------|------------------|
| 10/735,389                    | 12/12/2003  | Clint D. Garner      | 61366               | 1699             |
| 24230                         | 7590        | 10/03/2006           | EXAMINER            |                  |
| HARSHAW RESEARCH INCORPORATED |             |                      | NGUYEN, TUAN DUC    |                  |
| P O BOX 418                   |             |                      | ART UNIT            | PAPER NUMBER     |
| OTTAWA, KS 66067              |             |                      | 2614                |                  |

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/735,389 | <b>Applicant(s)</b><br>GARNER, CLINT D. |  |
|                              | <b>Examiner</b><br>Tuan D. Nguyen    | <b>Art Unit</b><br>2614                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/12/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "control circuit" in page 18 line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's cited reference US patent publication number 2002/0064276 (Winegar).

Regarding claims 1, 5, 12, 13, and 19, Winegar discloses a telephone headset (figs 1-8), comprising: a support structure for supporting the headset hands-free on a user's head; a boom (16) connected to the

support structure for positioning a microphone near a user's mouth, said boom having a side facing away from the user's head.

Winegar does not disclose a groove formed in said side; and at least one light source positioned in the groove on the boom and arranged such that the light source is completely shielded from the user's eyes to provide an in-use indicator for the headset that does not bother the user.

However, Winegar also discloses a groove (32) with a light indicator on the headband area and does not restrict to any specific areas (paragraph 0032).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the groove with light by Winegar on the boom for a particular application.

Regarding claim 2, Winegar also shows wherein said support structure comprises an ear-clip configuration that attaches to a user's ear (see figs 4, 5, 6).

Regarding claim 3, Winegar further discloses wherein said support structure comprises a headband having a first end attached to a body of the headset and a free end adapted to engage an opposite side of a user's head (see figs 1, 2, 3).

Regarding claim 4, Winegar further shows at least one additional light positioned at the free end of the headband, said additional light being

operable to provide an additional in-use indicator for the headset (see fig. 1).

Regarding claims 6-10 and 15-20, Winegar does not disclose a control circuit, a flashing means and a modulating means for controlling a light to indicate a telephone headset that is in-use or off-hook.

However, those components are well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use these well known control circuit, flashing means or modulating means for controlling a light indicator.

Regarding claims 11, 14 and 15, Winegar also discloses lights are LEDs or at least one light source is monolithic strip (paragraphs 0011, 0026).

### ***Conclusion***

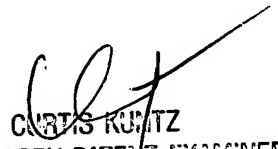
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (571) 272-8163. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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9/25/06